



UNITED STATES GOVERNMENT  
**NATIONAL LABOR RELATIONS BOARD**  
FREEDOM OF INFORMATION ACT BRANCH  
Washington, D.C. 20570

Via email

April 14, 2023

Re: FOIA Request NLRB-2023-001252

Dear Zinnia Khan (Fisher & Phillips LLP):

This is in response to your request, under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, received on April 11, 2023, in which you seek any records filed by, on behalf of, or about a specifically named individual against FedEx Ground Package, Inc. or FedEx Corporation. You assumed financial responsibility for the processing of your request in the amount of \$50.00.

We acknowledged your request on April 11, 2023.

Your request as filed, seeking records filed by or about a specifically named individual, is denied.

The Agency neither admits nor denies the existence of any such records because such confirmation or denial would harm the privacy interests protected by Exemptions 6 and 7(C) of the FOIA, 5 U.S.C. § 552(b)(6) and (b)(7)(C). See *Philippi v. CIA*, 546 F.2d 1009, 1013 (D.C. Cir. 1976). See, e.g., *People for the Ethical Treatment of Animals v. NIH* (“PETA”), 745 F.3d 535, 541-42 (D.C. Cir. 2014) (holding “Glomar” response appropriate for third-party request seeking documents revealing whether NIH had investigated three named researchers).

Conducting a search by an individual’s name, without an NLRB case name or number, could constitute an unwarranted invasion of personal privacy of that individual. FOIA case law establishes that individuals named in law enforcement investigatory files, including charging parties, witnesses, investigators, and informants, have such a protectible privacy interest. See, e.g., *Davis v. Dep’t of Justice*, 968 F.2d 1276, 1281 (D.C. Cir. 1992) (persons including informants and third-parties mentioned in government files have a “strong” privacy interest in non-disclosure of their identities); *Schrecker v. Dep’t. of Justice*, 349 F.3d 657, 661 (D.C. Cir. 2003).

Accordingly, because a search for Agency records cannot be conducted in our electronic casehandling system with the information you provided, your request is denied.

In the future, if you are interested in NLRB records, you may submit a new FOIA request that contains appropriately descriptive information that would permit a search for records, such as NLRB case number or case name.

For the purpose of assessing fees, we have placed you in Category A, commercial use requester. This category refers to requests “from or on behalf of a person who seeks information for a use or purpose that furthers the commercial, trade, or profit interests of the requester or the person on whose behalf the request is made, which can include furthering those interests through litigation.” NLRB Rules and Regulations, 29 C.F.R. § 102.117(d)(1)(v). Consistent with this fee category, you “will be assessed charges to recover the full direct costs of searching for, reviewing for release, and duplicating the records sought.” 29 C.F.R. § 102.117(d)(2)(ii)(A). Charges are \$9.25 per quarter-hour of professional time. 29 C.F.R. § 102.117(d)(2)(i).

The cost involved in providing this response has been waived pursuant to NLRB Rules and Regulations, 29 C.F.R § 102.117(d)(2)(iii)(A), because the total charges are less than \$5.00, which is the Agency’s cost of collecting and processing the fee itself.

You may contact Michael A. Maddox, the FOIA Attorney-Advisor who processed your request, at (202) 273-0013 or by email at Michael.Maddox@nrlb.gov, as well as the Agency’s FOIA Public Liaison, for any further assistance and/or to discuss any aspect of your request. The FOIA Public Liaison, in addition to the FOIA Attorney-Advisor, can further explain responsive and releasable agency records, suggest agency offices that may have responsive records, and/or discuss how to narrow the scope of a request in order to minimize fees and processing times. The contact information for the Agency’s FOIA Public Liaison is:

Kristine M. Minami  
FOIA Public Liaison  
National Labor Relations Board  
1015 Half Street, S.E., 4<sup>th</sup> Floor  
Washington, D.C. 20570  
Email: FOIAPublicLiaison@nrlb.gov  
Telephone: (202) 273-0902  
Fax: (202) 273-FOIA (3642)

After first contacting the Agency, you may additionally contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA dispute resolution services it offers. The contact information for OGIS is:

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Office of Government Information Services  
National Archives and Records Administration  
8601 Adelphi Road-OGIS  
College Park, Maryland 20740-6001  
Email: [ogis@nara.gov](mailto:ogis@nara.gov)  
Telephone: (202) 741-5770  
Toll free: (877) 684-6448  
Fax: (202) 741-5769

You may obtain a review of this determination under the NLRB Rules and Regulations, 29 C.F.R. § 102.117(c)(2)(v), by filing an administrative appeal with the Division of Legal Counsel (DLC) through FOIAonline at: <https://foiaonline.gov/foiaonline/action/public/home> or by mail or email at:

Nancy E. Kessler Platt  
Chief FOIA Officer  
National Labor Relations Board  
1015 Half Street, S.E., 4<sup>th</sup> Floor  
Washington, D.C. 20570  
Email: [DLCFOIAAppeal@nrlrb.gov](mailto:DLCFOIAAppeal@nrlrb.gov)

Any appeal must be postmarked or electronically submitted within 90 days of the date of this letter. Any appeal should contain a complete statement of the reasons upon which it is based.

Please be advised that contacting any Agency official (including the FOIA Attorney-Advisor, FOIA Officer, or the FOIA Public Liaison) and/or OGIS does not stop the 90-day appeal clock and is not an alternative or substitute for filing an administrative appeal.

Sincerely,

*/s/ Synta E. Keeling*

Synta E. Keeling  
FOIA Officer